

Confirmation No.: 1576

Group Art Unit: Unknown

Examiner: Unassigned

Attorney Docket No.: 026220-00062

## For: New Process for Preparing Nitrooxyderivatives of Naproxen

September 14, 2005

★ ★ ★ ★ ★ ★

**PETITION UNDER 37 C.F.R. §1.47(a)**

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**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

31 JAN 2006

**Legal Staff  
International Division**

Sir:

Pursuant to 37 C.F.R §1.47(a), the applicants respectfully petition the U.S. Patent and Trademark Office to accept the Oath/Declaration submitted herewith containing the signature of inventors Giancarlo SANTUS and Francesca BENEDINI. The signature of Piero DEL SOLDATO is missing as he refuses to join the application (Piero DEL SOLDATO is a non-signing inventor). Pursuant to 37 C.F.R. §1.47(a) and M.P.E.P. §409.03, the applicants include:

- 1) an affidavit by Italian attorney Maria Teresa Noro indicating that she sent the entire application (specification, claims, and drawings) along with a declaration to inventor Del Soldato, and his counsel Mr. Fabrizio Conte (the stamp and signature at the bottom of the duplicate copy of the letter indicate that Mr. Fabrizio Conte received both letters), twice requesting his signature on the declaration. On neither occasion did inventor Del Soldato return the signed declaration nor did he ever indicate that he was willing to participate in this application. Indeed, inventor Del Soldato's conduct clearly indicates that he does not intend to join this application;

Mr. Fabrizio Conte received 130.00 OP

- 2) letters sent by Attorney Teresa Noro with English translations thereof;
- 3) copies of postal receipts; and
- 4) Affidavit of Accuracy of translation

The applicants also include the Notification of Missing Requirements mailed August 9, 2005, and a check for \$195.00. The check includes \$130.00, the petition fee under 37 C.F.R. §1.17(h) and \$65.00, the surcharge for the late oath/declaration.

The last known address of inventor Piero DEL SOLDATO is:

Via Enrico Toti 22  
Monza, MI 20052  
ITALY

The applicants respectfully submit that they have made a *bona fide* attempt to comply with the provisions of 37 C.F.R. §1.47(a). The applicants respectfully request the Office of Petitions grant this petition and forward the file to the Office of Initial Patent Examination (OIPE) for further processing.

If any questions or issues remain, the Office of Petitions is respectfully requested to contact the undersigned to help with their resolution. The Commissioner is authorized to charge any additional fees required or credit any over-payments to Deposit Account No. 01-2300, referencing Attorney Docket No. 026220-00062.

Respectfully submitted,

ARENT FOX PLLC



Gautam Prakash, Ph.D.

Registration No.: 53,481

Direct Telephone No.: 202-857-6057

Customer No.: **004372**

1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5339

Telephone No.: 202-857-6000  
Facsimile No.: 202-857-6395

/GP

*Avv. Maria Teresa Noro*

Spettabile  
NicOx Research Institute S.r.l.  
Giovanna Barchielli  
Via Ariosto, 21  
20091 - BRESSO  
(Milano)

*20122 Milano  
Via Freguglia, 4  
Tel. 02.550.111.99  
Fax 02.55.16.369*

Milan, June 22th, 2005

### **AFFIDAVIT**

I, the undersigned Maria Teresa Noro, lawyer, practising in Milan, Via Freguglia 4, state the following.

I have been requested by Nicox to assist it in its controversy against Mr. Piero Del Soldato, a shareholder of the company Nicox S.A. and employee of Nicox S.r.l. who was dismissed by letter dated April 2, 2004.

On April 6, 2004, Mr. Piero Del Soldato challenged his dismissal and enforced his alleged right to be granted certain sums as compensation for his being assigned to less qualified duties, as well as the bonus under Articles 23 and following of Royal Decree no. 1127/39 (the Italian Patent Law) on account of the inventions of which he has been designated inventor or co-inventor during his employment relationship and which remains the sole property of N.S.A. For this reason, in the past few months I have been in touch on a frequent basis with Mr. Fabrizio Conte of the Milan Bar, the lawyer who is assisting Mr. Piero Del Soldato in the above mentioned controversy.

On April 1, 2005 Nicox S.A.'s Legal Department asked me to have the following documents signed by Mr. Piero Del Soldato and returned to it:

- 1) ns. rif. NP 0002 entitled "NITROOXYDERIVATIVES OF CYCLOOXYGENASE-2 INHIBITORS" - 5 documents: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment and Declaration; South Africa/Assignment and a copy of the entire application (i.e. specification, including claims and drawings).
- 2) ns. rif. NP 0003 entitled "ORAL PHARMACEUTICAL FORMS OF LIQUID DRUGS HAVING IMPROVED BIOAVAILABILITY" - 5 documents: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment and Declaration; South Africa/Assignment and a copy of the entire application (i.e. specification, including claims and drawings).

- 3) ns. rif. NP 0004 entitled "PROCESS FOR PREPARING NITROOXYALKYL SUBSTITUTED ESTERS OF CARBOXYLIC ACIDS, INTERMEDIATES USEFUL IN SAID PROCESS AND PREPARATION THEREOF" - 2 documents: USA/Assignment and Declaration and a copy of the entire application (i.e. specification, including claims and drawings).
- 4) ns. rif. NP 0011 entitled "PROCESS FOR PREPARING NITROOXYDERIVATIVES OF NAPROXEN" - 5 documents: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment and Declaration; South Africa/Assignment and a copy of the entire application (i.e. specification, including claims and drawings).

On May 2, 2005 I sent a set of the above mentioned documents to Mr. Piero Del Soldato, at his domicile in Monza, Via Enrico Toti 22 under registered mail, with copy hand-delivered to his lawyer, asking Mr. Piero Del Soldato to return said documents to me duly signed or to notify in writing his explanations for not doing so.

On May 23, 2005 I sent another set of the above mentioned documents to Mr. Piero Del Soldato under registered mail, with copy to his lawyer, asking Mr. Piero Del Soldato to return said documents to me duly signed in ten days or to notify in writing his explanations for not doing so.

Mr. Piero Del Soldato never sent back to me these documents.

I enclose herewith copies of my letters dated May 2, 2005 together with the related registered mail receipt and acknowledgement of receipt; I also enclose the second one dated May 23, 2005 together with the related registered mail receipt and the printout obtained from the Poste Italiane (the Italian Post Office) website reporting the status of delivery.

A copy of my passport is also enclosed.

Respectfully submitted,

  
(Avv. Maria Teresa Noro)

*Avv. Maria Teresa Noro*

Egregio Signor  
Dott. Piero del Soldato  
Via Enrico Toti 22  
20052 - MONZA

*20122 Milano  
Via Freguglia, 4  
Tel. 02.550.111.99  
Fax 02.55.16.369*

e, per conoscenza

**RACCOMANDATA A MANO**

Egregio Signor  
Avvocato Fabrizio Conte  
Via Freguglia 8/a  
20122 - MILANO

Milano, 2 maggio 2005  
**RACCOMANDATA A.R.**

Egregio dott. Del Soldato,

Le invio la documentazione di cui in appresso trasmessami dalla Nicox, la quale mi ha incaricato di contattarLa per richiederLe di sottoscriverla.

Si tratta, specificamente, della seguente documentazione:

- 1) ns. rif. NP 0002 dal titolo "NITROOXYDERIVATIVES OF CYCLOOXYGENASE-2 INHIBITORS" - 5 documenti: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment e Declaration; South Africa/Assignment e il testo del brevetto.
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Attendo che Lei mi restituisca detta documentazione debitamente firmata entro 15 giorni da oggi.

Trasmetto copia di questa lettera e dell'allegata documentazione anche al Suo legale, Avv. Fabrizio Conte, affinché ne possa prendere visione.

Coi migliori saluti.

  
(Avv. Maria Teresa Noro)

All.: come nel testo

Posteitaliane

Mod. 22 - R - Cod. W8150E - Ed. 10/01 (00) L1

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MITTENTE	20052 MONZA		
	C.A.P. COMUNE PROV.		
	Avv. MARIA TERESA NORO		
	Via Freguglia, 4 - 20122 MILANO		
Tel: 02-550.111.99 (r.a.)			
Fax 5516369			
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*Avv. Maria Teresa Noro*

Egregio Signor  
Dott. Piero del Soldato  
Via Enrico Toti 22  
20052 - MONZA

*20122 Milano  
Via Freguglia, 4  
Tel. 02.550.111.99  
Fax 02.55.16.369*

e, per conoscenza

**RACCOMANDATA A MANO**

Egregio Signor  
Avvocato Fabrizio Conte  
Via Freguglia 8/a  
20122 - MILANO

Milano, 2 maggio 2005  
**RACCOMANDATA A.R.**

Egregio dott. Del Soldato,

Le invio la documentazione di cui in appresso trasmessami dalla Nicox, la quale mi ha incaricato di contattarLa per richiederLe di sottoscriverla.

Si tratta, specificamente, della seguente documentazione:

- 1) ns. rif. NP 0002 dal titolo "NITROOXYDERIVATIVES OF CYCLOOXYGENASE-2 INHIBITORS" - 5 documenti: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment e Declaration; South Africa/Assignment e il testo del brevetto.
- 2) ns. rif. NP 0003 dal titolo "ORAL PHARMACEUTICAL FORMS OF LIQUID DRUGS HAVING IMPROVED BIOAVAILABILITY" - 5 documenti: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment e Declaration; South Africa/Assignment e il testo del brevetto.
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Attendo che Lei mi restituisca detta documentazione debitamente firmata entro 15 giorni da oggi.

Trasmetto copia di questa lettera e dell'allegata documentazione anche al Suo legale, Avv. Fabrizio Conte, affinché ne possa prendere visione.

Coi migliori saluti.

*Maria Teresa Noro*  
(Avv. Maria Teresa Noro)

All.: come nel testo

*p.* **Avv. Fabrizio Conte**  
Via Freguglia, 8/A - 20122 MILANO  
Tel. 55011592 (r.a.) - Telefax 5513884  
3/5/05

*Atty. Maria Teresa Noro*

Attn.  
Dr. Piero del Soldato  
Via Enrico Toti 22  
20052 - MONZA

20122 Milan  
Via Freguglia, 4  
Tel: 02.550.111.99  
Fax: 02.55.16.369

and, for information

**REGISTERED LETTER DELIVERED IN PERSON**

Attn.  
Atty. Fabrizio Conte  
Via Freguglia 8/a  
20122 - MILAN

Milan, May 2, 2005  
**REGISTERED LETTER A.R.**

Dear Dr. Del Soldato,

I am sending you the documentation sent to me by Nicox S.A., which asked me to contact you and ask you to sign it.

Specifically, I am referring to the following documentation:

- 1) Our ref. NP 0002 titled "NITROOXYDERIVATIVES OF CYCLOOXYGENASE-2 INHIBITORS" - 5 documents: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment and Declaration; South Africa/Assignment and the text of the patent.
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I am waiting for you to return said documentation to me, duly signed, within 15 days from today.

I am also sending a copy of this letter and its enclosed documentation to your lawyer, Atty. Fabrizio Conte, for his information.

Best regards.

[signature]  
(Atty. Maria Teresa Noro)

Enclosures: as indicated in the text



# Posteitaliane

Mod. 22 - R - Cod. W8150E - Ed. 10/01 (00) L1

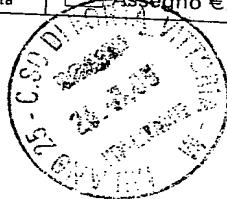
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Bollo  
(accettazione manuale)

TASSE

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*Avv. Maria Teresa Noro*

Egregio Signor  
Dott. Piero Del Soldato  
Via Enrico Toti 22  
20052 - MONZA

20122 Milano  
Via Freguglia, 4  
Tel. 02.550.111.99  
Fax 02.55.16.369

e, per conoscenza

**RACCOMANDATA A MANO**

Egregio Signor  
Avvocato Fabrizio Conte  
Via Freguglia 8/a  
20122 - MILANO

Milano, 23 maggio 2005  
**RACCOMANDATA A.R.**

Egregio dott. Del Soldato,

in nome e per conto della Nicox S.A., faccio seguito alla mia del 2 maggio scorso per inviarLe una seconda volta la documentazione seguente, che La prego di sottoscrivere e di restituire al mio Studio entro 10 giorni dal ricevimento della presente:

- 1) ns. rif. NP 0002 dal titolo "NITROOXYDERIVATIVES OF CYCLOOXYGENASE-2 INHIBITORS" - 5 documenti: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment e Declaration; South Africa/Assignment e il testo del brevetto.
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Trasmetto copia di questa lettera anche al Suo legale, Avv. Fabrizio Conte, per sua informazione.

Rimango in attesa di Suo urgente riscontro e La saluto molto distintamente.

  
(Avv. Maria Teresa Noro)

All.: come nel testo

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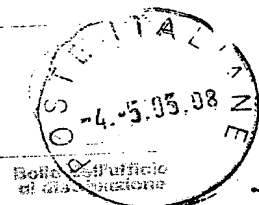
04 MAG. 2005

Ed. 02/04 - L1

Pierluigi Alessi  
Firma per esteso del ricevente  
(Nome e Cognome)

Data

[Signature]  
Firma dell'incaricato alla distribuzione



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• Sottoscrizione rifiutata

*Avv. Maria Teresa Noro*

Egregio Signor  
Dott. Piero Del Soldato  
Via Enrico Toti 22  
20052 - MONZA

20122 Milano  
Via Freguglia, 4  
Tel. 02.550.111.99  
Fax 02.55.16.369

e, per conoscenza

**RACCOMANDATA A MANO**

Egregio Signor  
Avvocato Fabrizio Conte  
Via Freguglia 8/a  
20122 - MILANO

Milano, 23 maggio 2005  
**RACCOMANDATA A.R.**

Egregio dott. Del Soldato,

in nome e per conto della Nicox S.A., faccio seguito alla mia del 2 maggio scorso per inviarLe una seconda volta la documentazione seguente, che La prego di sottoscrivere e di restituire al mio Studio entro 10 giorni dal ricevimento della presente:

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Trasmetto copia di questa lettera anche al Suo legale, Avv. Fabrizio Conte, per sua informazione.

Rimango in attesa di Suo urgente riscontro e La saluto molto distintamente.

All.: come nel testo

25/5/05  
P **Avv. Fabrizio Conte**  
Via Freguglia, 8/a - 20122 MILANO  
Tel. 5501592 (r.a.) Telefax 5513884

*Maria Teresa Noro*  
(Avv. Maria Teresa Noro)

*Atty. Maria Teresa Noro*

Attn.  
Dr. Piero del Soldato  
Via Enrico Toti 22  
20052 - MONZA

20122 Milan  
Via Freguglia, 4  
Tel: 02.550.111.99  
Fax: 02.55.16.369

and, for information

**REGISTERED LETTER DELIVERED IN PERSON**

Attn.  
Atty. Fabrizio Conte  
Via Freguglia 8/a  
20122 - MILAN

Milan, May 23, 2005  
**REGISTERED LETTER A.R.**

Dear Dr. Del Soldato,

In the name and on behalf of Nicox, S.A. I am following up on my letter of last May 2 in order to send you a second time the following documentation which I am asking you to sign and return to my Office within 10 days of receipt of this letter:

- 1) Our ref. NP 0002 titled "NITROXYDERIVATIVES OF CYCLOOXYGENASE-2 INHIBITORS" - 5 documents: Canada/Assignment; New Zealand/Request under Section 23 (3); USA/Assignment and Declaration; South Africa/Assignment and the text of the patent.
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I am also sending a copy of this letter to your lawyer, Atty. Fabrizio Conte, for his information.

I am waiting for your urgent answer and I remain

Sincerely,

[signature]  
(Atty. Maria Teresa Noro)

Enclosures: as indicated in the text



TRANSPERFECT  
TRANSLATIONS

## AFFIDAVIT OF ACCURACY

I, Elizabeth Meyer, hereby certify that the following document is, to the best of my knowledge and belief, a true and accurate translation from Italian into English.

Elizabeth Meyer  
TransPerfect Translations  
601 Thirteenth Street, NW  
Suite 320 North  
Washington, DC 20005

Sworn to before me this  
25<sup>th</sup> day of August, 2005

  
Signature, Notary Public

**Lisa Sherfinski**  
Notary Public, District of Columbia  
My Commission Expires 01-01-2008

Stamp, Notary Public

District of Columbia

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